

SCR

303 NLRB No. 51

D--2051
Belleville, NJ

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

NORTHFIELD CREATIONS & DESIGNS LTD., INC.
a/k/a AMITY CASUALS/EMBROIDERY MANAGEMENT
CORP./S.M.X. CORP.

and

Case 22--CA--17266

LOCAL 166, INTERNATIONAL LADIES'
GARMENT WORKERS' UNION, AFL--CIO

June 11, 1991
DECISION AND ORDER

By Chairman Stephens and Members Oracraft and Raudalough
Upon a charge filed by the Union September 21, 1990, the General Counsel

of the National Labor Relations Board issued a complaint November 5, 1990, against Northfield Creations & Designs Ltd., Inc. a/k/a Amity Casuals/Embroidery Management Corp./S.M.X. Corp., the Respondent, alleging that it has violated Section 8(a)(1) and (5) and Section 8(d) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent has failed to file an answer.

On April 15, 1991, the General Counsel filed a Motion for Summary Judgment. On April 18, 1991, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, "all of the allegations in the complaint shall be deemed to be admitted to be true and shall be so found by the Board." Further, the undisputed allegations in the General Counsel's memorandum in support of the Motion for Summary Judgment disclose that counsel for the General Counsel, by separate letters dated November 20 and December 6, 1990, notified the Respondent that unless an answer was received by November 27 and December 13, 1990, respectively, a Motion for Summary Judgment would be filed.¹

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

Findings of Fact

I. Jurisdiction

The Respondent, a corporation, with an office and place of business in Belleville, New Jersey, has been engaged in the warehousing, assembly, and nonretail sale and distribution of garments. At all times material, Northfield Creations & Designs, Ltd., Inc. a/k/a Amity Casuals/Embroidery Management Corp./S.M.X. Corp. have been affiliated business enterprises with common officers, ownership, directors, management, and supervision; have formulated

¹ Subsequent to the November 20, 1990 letter, the Region was notified that any further correspondence regarding this matter should be sent to Carmen J. Maggio, trustee in bankruptcy. Accordingly, on November 28, 1990, the complaint was properly served on Seymour Schlam c/o Carmen Maggio, trustee in bankruptcy, by certified mail.

formulated and administered a common labor policy affecting employees of the operations; have shared common premises and facilities; have provided services for and made sales to each other; have interchanged personnel with each other; and have held themselves out to the public as single-integrated business enterprises. By virtue of this operation, the Respondent constitutes a single-integrated business enterprise and a single employer within the meaning of the Act. During the preceding 12 months, the Respondent, in the course and conduct of its business operations, sold and shipped from its Belleville, New Jersey facility products, goods, and materials valued in excess of \$50,000 directly to points outside the State of New Jersey. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. Alleged Unfair Labor Practices

Since about 1982 and at all times material, the Union has been the designated exclusive collective-bargaining representative of the employees in the unit of all nonsupervisory packers/shippers and sorters/taggers and production, maintenance, examiners, floor and general workers employed by the Respondent at its Belleville, New Jersey facility, a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act. That recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective by its terms for the period September 14, 1987, to September 14, 1990.

On or about August 22, 1990, the Union and the Respondent reached full and complete agreement with respect to terms and conditions of employment of the employees in the unit to be incorporated in a collective-bargaining agreement between the Union and the Respondent. Since on or about September 5,

1990, the Union has requested the Respondent to execute a written contract embodying this agreement. Since on or about September 5, 1990, the Respondent, orally, has failed and refused to execute a written contract embodying this agreement. By these acts and conduct, we find that the Respondent has violated Section 8(a)(5) and (1) of the Act.

Conclusions of Law

By failing and refusing to execute a written contract embodying the full and complete agreement between the Union and the Respondent, reached on August 22, 1990, with respect to terms and conditions of employment of the employees in the unit, the Respondent has failed and refused, and is failing and refusing, to bargain collectively and in good faith with the representative of its employees as required by Section 8(d) of the Act, and thereby has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

Remedy

Having found that the Respondent has engaged in unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. We shall order the Respondent to execute a written contract embodying the full and complete agreement reached by the parties on August 22, 1990, with respect to terms and conditions of employment of the employees in the unit, and to make the employees whole for any losses they may have suffered as a result of the Respondent's failure and refusal to execute the agreement, in the manner prescribed in Ogle Protection Service, 183 NLRB 682 (1970), with interest to be computed in the manner set forth in New Horizons for the Retarded, 283 NLRB 1173 (1987).

ORDER

The National Labor Relations Board orders that the Respondent, Northfield Creations & Designs Ltd., Inc. a/k/a Amity Casuals/Embroidery Management Corp./S.M.X. Corp., Belleville, New Jersey, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to execute a written contract embodying the full and complete agreement with the Union reached on August 22, 1990, with respect to terms and conditions of employment of the employees in the unit.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request by the Union, execute a written contract embodying the full and complete agreement with the Union reached on August 22, 1990, with respect to terms and conditions of employment of the employees in the unit.

(b) Make the unit employees whole for any losses they may have suffered as a result of the Respondent's failure and refusal to execute a written contract embodying the full and complete agreement between the Respondent and the Union, in the manner set forth in the remedy section of this decision.

(c) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(d) Post at its facility in Belleville, New Jersey, copies of the attached notice marked "'Appendix.'"² Copies of the notice, on forms provided by the Regional Director for Region 22, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C. June 11, 1991

James M. Stephens, Chairman

Mary Miller Cracraft, Member

John N. Raudabaugh, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

² If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "'POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD'" shall read "'POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD.'"

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail and refuse to execute a written contract embodying the full and complete agreement with Local 166, International Ladies' Garment Workers' Union, AFL--CIO reached on August 22, 1990, with respect to terms and conditions of employment of employees in the unit.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request by the Union, execute a written contract embodying the full and complete agreement with Local 166, International Ladies' Garment Workers' Union, AFL--CIO reached on August 22, 1990, with respect to terms and conditions of employment of the employees in the unit.

WE WILL make each of the unit employees whole, with interest, for any losses they may have suffered by reason of our failure and refusal to execute the collective-bargaining agreement between the Union and us.

NORTHFIELD CREATIONS & DESIGNS
LTD., INC. a/k/a AMITY
CASUALS/EMBROIDERY MANAGEMENT
CORP./S.M.X. CORP.

(Employer)

Dated _____ By _____
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 970 Broad Street, Room 1600, Newark, New Jersey 07102-2570, Telephone 201--645--3652.